

REMARKS/ARGUMENTS

These remarks are set forth in response to the Non-Final Office Action. As this amendment has been timely filed within the three-month statutory period, neither an extension of time nor a fee is required. In the Office Action, the Examiner has rejected claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,284,258 to Genero et al. (Genero), claims 1 and 3 under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 4,276,984 to Simmons, and claim 7 under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 3,161,158 to Lurey. The Examiner yet further has rejected claims 4 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Genero alone. Finally, the Examiner has objected to claims 2 and 3 due to a typographical error which error the Applicants have corrected herein. Notably, the Examiner has neither objected to nor rejected claim 5. *As such, the Applicants are proceeding based upon the presumption that claim 5 is an allowable claim.*

In response to the aforementioned rejections, the Applicants have amended claims 1 and 7 in view of the prior interview with the Examiner during the telephonic conference of June 15, 2005. In that conference, the Applicants noted that all previously cited art that disclosed stacking surfaces required the assistance of a vertical support. It is important to note that in the originally filed claims, this aspect of the invention was explicitly recited. Yet, due to the suggested amendment set forth in the telephonic interview, this limitation had been removed. The Applicants now have amended this limitation back into claims 1 and 7.

In more particular explanation, the folding batch towel holder of Genero cannot function without the vertical support structure (inner track section 15) that acts as a supporting guide for each stacking surface. Similarly, the support shelves of the wine rack of Simmons require the

Application No. 10/613,486
Filed: 07/03/2003
Attorney Docket No.: 7296-2U

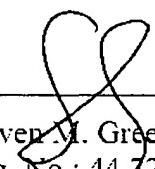
support of a "pivot rod 50" to the "upright side walls 23 and 24" of the frame of a wine rack.

Finally, the "shelf assemblies 16" of the "display rack 10" of Lurey requires the support of the "vertical back wall 14". In all three cases, the "stacking surface and support surface supporting a vertical stacking of articles of manufacture" cannot do so "without assistance from other support structures" as recited in Applicants' claims 1 and 7. Accordingly, the Applicants do not believe that any of Genero, Simmon or Lurey teaches each recited limitation of the amended claims.

Because each of Genero, Simmons and Lurey require a support structure for their respective stacking services in contravention of the explicit claim language of claims 1 through 7, the Applicants believe that claims 1 through 7 now stand patentable and ready for allowance. Consequently, such action is respectfully requested. The Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: February 27, 2006



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